

No. 9/6/86-6Lab/5407.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s Vinod Textile, G. T. Road, Panipat.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER,
LABOUR COURT, AMBALA

Reference No. 264 of 1984

(Old No. 48 of 1980)

SHRI MOHINDER SINGH WORKMAN C/O TEXTILE MAZDOOR SANGH, PANIPAT AND THE
MANAGEMENT OF THE MESSRS VINOD TEXTILE, G. T. ROAD, PANIPAT..

Present :

Shri Karan Singh, for the workman.

Shri Surinder Kaushal, for the respondent.

AWARD

The Hon'ble Governor of Haryana in exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred dispute between Mohinder Singh workman and Messrs Vinod Textile, G. T. Road, panipat originally to Labour Court, Rohtak. The terms of the reference are as under :—

Whether termination of services of Shri Mohinder Singh workman was justified and in order? If not to what relief is he entitled?

On constitution of Labour Court at Ambala in April, 1984 this reference was received by transfer.

Mohinder Singh through his statement of claim averred that he has been in the employment of respondent management since 1970 as a piece Rate worker. On 15th December, 1979 his services were terminated without any notice, charge-sheet and in violation of provisions of section 25 (F) of Industrial Disputes Act, 1947. He further prayed that he along with his co-workers formed union and issued general demand notice to the management on that account management felt annoyed. Thereafter a compromise was arrived at on 19th February, 1980 on the intervention of Conciliation Officer, Panipat According to that compromise management had agreed to take all the workers on duty but when applicant approached the management he was not allowed to join duty. The management terminated his services on the false pretext that the applicant did not report on duty. Workman prayed that he be got reinstated with continuity in service and with full back wages.

Respondant management contested the dispute and contended that the management Establishment is covered under the Punjab shops and Commercial Establishment Act, Accordingly present reference is not maintainable and provisions of Industrial Disputes Act are not attracted. It was further contended that applicant first of all came in the service of management in August, 1979 thereafter he worked for some days in November, i. e. from 3rd November, 1979 to 13th November, 1979. He has received all his dues and thereafter he himself abandoned his job, Management never terminated services of the workman.

On the pleadings of the parties the following issues were framed for the just decision of this dispute.

Issues.

1. Whether the management Establishment is covered under the Punjab Shops Establishment and Commercial Act and thereby excluded from the purview of the I. D. Act? OPM
2. As per reference.

I have heard Shri Karan Singh, Authorised Representative for the workman, and Shri Surinder Kaushal for respondent management and have perused the oral and documentary evidence placed on the file. My issue wise finding as under:

Issue No. 1

In support of this issue in fact there is no evidence on the file it was the duty of management to have produced a copy of registration of management Establishment under the Punjab Shops and Commercial Establishment Act. Withholding of certified copy of the registration shows that this Establishment is not covered under the Shops Establishment and Commercial Act. In other words it is covered under the Industrial Disputes Act, 1947, so the Labour Court has got jurisdiction to go into the question of dispute between the parties as per reference. So this issue is decided, in favour of workman and against the management.

Issue No. 2

In support of this issue management examined himself as WW-1. He stated that he has been serving the respondent-management as a Piece Rate worker since 1970 along with 70-75 persons. 26 workers work at the power loom and thereafter 13 power looms in the Establishment of the management. He stated that a general demand notice for betterment of the lot of the workmen was issued due to that fact the management was displeased. Matter was brought to the notice of Labour Officer, Panipat, who got the matter settled between the parties. But the management was not happy with the activities of workman, due to that fact he was not taken on duty. In cross-examination this witness stated that some time he used to sign register and some time vouchers at the time of receipt of his wages. He further admitted that vouchers Ex-MW-2/3 at page No. 5 on mark-A bears his signatures. He further stated that he was simply a member of the union of textile worker and was not an office bearer. Management in support of this case examined MW-1 Shri Som Nath, Clerk of the office of Labour Office, Panipat who brought documents Ex-M-1 to M-3 as well as Mark-A dated 5th March, 1980. Shri Subhash Chand Jain, Manager of respondent-management appeared. He stated that Mohinder Singh was on roll in the management from 1st January, 1979 to 31st August, 1979. He had received Rs. 311.20 for the said period. Thereafter he left service again joined employment of respondent on 3rd November, 1979 and worked up to 13th November, 1979 and received Rs. 104. Photo Stat copy of the vouchers is Ex. MW-2/1. He further stated that services of Mohinder Singh workman were never terminated on 15th December, 1979 in fact, Mohinder Singh never reported on duty after 13th November, 1979. Letters Ex-MW-2/2, Ex-M-1 to Ex-M-3 were written to workman asking him to report on duty, but he failed to report on duty.

Management further in support of its case tendered into evidence payment registers & Attendance registers of the workers which are Ex-MW-2/3, Ex-MW-2/4 and Ex-MW-2/5 these registers show the attendance of Shri Mohinder Singh and the payment which have been received by him in lieu of work done by him.

In view of the above evidence it has become obvious that the claim of Mohinder Singh that he has been in the service of management since 1970 and his services were terminated on 15th December, 1979 becomes falsified because the record of the management does not support the contentions of Shri Mohinder Singh workman. Management has specifically taken a stand that workman Mohinder Singh joined employment of respondent on 1st January, 1979 and then left job in August, 1979. Thereafter, he again came on 3rd November, 1979 and left on 13th November, 1979 and, in spite of, repeated requests through letters mentioned above Mohinder Singh never reported for duty.

There is a solitary statement of Shri Mohinder Singh on the file in support of his claim which cannot be believed. The best course which was open to the workman was that he should have got summoned records regarding his attendance and record pertaining having received his wages from the management or he should have examined one or two his co-workers. But he failed to do so which clearly means that he has failed to prove his claim.

The sole contentions of Shri Karan Singh that no proper record is maintained by the management is not correct. Because during the trial of this dispute no prayer was ever made by the workman for producing record from the management.

In view of my above discussions I am of the considered view that the workman did not complete his service in the employment of respondent management either for 240 days or more than that so the provisions of section 25 (F) of I. D. Act, 1947 are not attracted. The management was not at all bound to issue any notice or to make payment of retrenchment compensation nor it was required to inform the appropriate Authority regarding retrenchment of the workman. So this issue is decided, in favour of, management against the workman.

Issue No. 3 Relief

In view of my findings on issue No. 2. I hold that workman is not entitled to reinstatement with continuity in service and with full back wages.

I pass award regarding the controversy between the parties accordingly.

Dated the 23rd May, 1986.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endst. No. 1476, dated the 27th May, 1986

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

KULWANT SINGH,

Secretary to Government Haryana,
Labour and Employment Department.

श्रम विभाग

आदेश

दिनांक 4 अगस्त, 1986

सं० ओ.वि./एफ.डी./51-86/28737.—चूंकि हरियाणा के राज्यपाल की राय है कि मै० इन्डिकेशन इन्स्ट्रुमेंट, लि० सेंटर 5, फरीदाबाद, के श्रमिक श्री नरेन्द्र सिंह नेगी, पुत्र श्री कुन्दन सिंह नेगी, मार्फत श्री श्याम सुन्दर गुप्ता, 50, निगम चौक फरीदाबाद तथा उसके प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निदिष्ट करना वांछनीय समझते हैं;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं० 5415-3-श्रम-68/15254, दिनांक 20 जून, 1978, के साथ पढ़ते हुए अधिसूचना सं० 11495-जी-श्रम 58/11245, दिनांक 7 फरवरी, 1958 द्वारा उक्त अधिसूचना की धारा 7 के अधीन गठित श्रम न्यायालय, फरीदाबाद को विवादग्रस्त या उससे सुसंगत या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निदिष्ट करते हैं जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या उक्त विवाद से सुसंगत अथवा सम्बन्धित मामला है :—

क्या श्री नरेन्द्र सिंह नेगी, की सेवाओं का समापन न्यायोचित तथा ठीक है? यदि नहीं, तो वह किस राहत का हकदार है?

दिनांक 7 अगस्त, 1986

सं० ओ.वि./एफ.डी./123-86/27849.—चूंकि हरियाणा के राज्यपाल की राय है कि मै० ओरियन्टल इन्डस्ट्रीज लि० 12/7, मथुरा रोड, फरीदाबाद के श्रमिक श्री राम पाल, पुत्र श्री श्याम दत्त, मार्फत एटक मार्केट नं० 1, एन०आई०टी० फरीदाबाद, तथा उसके प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निदिष्ट करना वांछनीय समझते हैं;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947, की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं० 5415-3-श्रम/68/15254, दिनांक 20 जून, 1978, के साथ पढ़ते हुए अधिसूचना सं० 11495-जी-श्रम/57/11245, दिनांक 7 फरवरी, 1958, द्वारा उक्त अधिसूचना की धारा 7 के अधीन गठित श्रम न्यायालय, फरीदाबाद, को विवादग्रस्त या उससे सुसंगत या उससे सम्बन्धित नीचे लिख मामला न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निदिष्ट करते हैं जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या विवाद से सुसंगत अथवा सम्बन्धित मामला है :—

क्या श्री राम पाल की सेवाओं का समापन न्यायोचित तथा ठीक है? यदि नहीं, तो वह किस राहत का हकदार है?